

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SEAN P. TATE,

Petitioner,

v.

Case No. 05C0083

BYRAN BARTOW,

Respondent.

ORDER

On April 11, 2007, I denied petitioner Sean P. Tate's petition for a writ of habeas corpus. I then denied his motion to alter judgment and his implied request for a certificate of appealability, and granted his motion for leave to appeal in forma pauperis. He has since requested a second certificate of appealability relating to my alter judgment decision, which I will deny without further discussion because my denial of the underlying petition, not my denial of petitioner's motion to alter judgment, is the proper decision for review before the court of appeals.

Petitioner also filed a motion to enlarge the appeal record with three items that he alleges were inadvertently not included in such record: my June 6, 2006 order denying petitioner's motion to expand the record, granting his motion for an extension of time and denying his motion to file excess pages as moot; petitioner's May 23, 2007 amended notice of appeal; and petitioner's May 24, 2007 request for a second certificate of appealability, which I denied above. I will grant petitioner's motion as it relates to the June 6 order. However, I will deny it regarding the other documents, as these documents are already before the Court of Appeals.

Therefore,

IT IS ORDERED that petitioner's motion to expand the record on appeal is **GRANTED IN PART AND DENIED IN PART.**

IT IS FURTHER ORDERED that the clerk of court transmit to the Seventh Circuit Court of Appeals the June 6, 2006 order in this case, docketed as Docket #28.

Dated at Milwaukee, Wisconsin, this 12 day of June, 2007.

/s _____
LYNN ADELMAN
District Judge